

1825, chapter 174, which was read the first time and referred to Messrs. Heath, Smith and Kennedy.

And the following message which was read.

By the House of Delegates, Feb. 20, 1829.

Gentlemen of the Senate,

We have received a bill, passed by your honorable body, proposing the repeal of the fifth section of an act passed at this session, entitled, an additional supplement to the act for making the river Susquehannah navigable, from the line of this State to tide water. This section was intended to secure to the Susquehannah Canal Company, the enjoyment of the towing path, of the said Canal, for the purposes for which the right to construct the same was originally granted, by providing for the removal of obstructions calculated to impair or to impede that enjoyment. The proposed repeal, is predicated upon a memorial, shewing, or professing to shew, individual rights secured by contract with the original company, which are impaired by the general regulation of the fifth section. Many questions are involved in this act with reference to the power of the company to grant rights incompatible with the free and continual enjoyment of the towing path as an accessory of the Canal, and the extent of the right itself as a right sub modo, and subservient to the primary objects of the towing Path, or as determined by the terms of the grant itself. It will be observed by your honorable body, that the proposed repeal although predicated upon individual rights secured by contract with an individual does yet extend to all the world, and that in effecting the relief of the parties to the contract, it does in effect throw this towing path open to all other persons not parties to the contract, and taking no benefit under it.

We therefore respectfully propose a conference, with your honorable body in relation to this bill, so that the proposed repeal, if proper and necessary, may be rendered conformable to the rights and interests of the community, as involved in the security afforded to the uninterrupted navigation of said Canal, and may be restricted, in its application, to the contract upon which it is based. We have named on the part of our house, the committee on internal improvement, consisting of Messrs. Lee, McMahon, (of Baltimore) Phelps, Spencer, Thomas, Shriver and Buskirk.

By order,

Gideon Pearce, Clk.

The Senate proceeded to the consideration of the bill